

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
:
v. : 20-CR-384 (WFK)
:
GORG NAUMOVSKI, : October 6, 2020
:
Defendant. : Brooklyn, New York
:
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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE VERA M. SCANLON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: SETH DuCHARME, ESQ.
UNITED STATES ATTORNEY
BY: ANDREW ESTES, ESQ.
ASSISTANT U.S. ATTORNEY
271 Cadman Plaza East
Brooklyn, New York 11201

For the Defendant: ROBERT RADICK, ESQ.

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1 THE CLERK: This is criminal cause for
2 arraignment, case number 20-CR-384, United States v.
3 Gorgi Naumovski.

4 Counsel, starting with the government,
5 please state your appearances.

6 MR. ESTES: Good morning, your Honor.
7 Andrew Estes for the government.

8 THE COURT: Good morning.

9 MR. RADICK: Good morning, your Honor.
10 Robert Radick of Morvillo Abramowitz for Mr. Naumovski.
11 Also on the line are Brian McGovern and James Touhy
12 (ph) of McCarthy Leonard & Kaemmerer in the St. Louis
13 area.

14 THE COURT: Okay. Let me really just check
15 in with Felix. We're here for the arraignment on the
16 indictment. There's a proposed bail package. Is there
17 a proposed order of excludable delay?

18 THE CLERK: It's arraignment on the
19 indictment, it's his first appearance in the Eastern
20 District of New York. The defendant was arrested, I
21 believe, in Illinois and released on bond and was told
22 to make his telephonic court appearance today at 11:00.

23 Is that correct, Mr. Estes?

24 MR. RADICK: Yes.

25 MR. ESTES: Yes. This is Andrew Estes for

1 the government. That's correct. There's not been an
2 application for an order of excludable delay just yet.
3 Judge Kuntz's chambers had requested that we follow up
4 on the status conference after this morning's
5 proceedings, so that's what we're doing.

6 THE COURT: Okay. Mr. Naumovski -- well,
7 actually, let me ask counsel a couple of other
8 questions before I address you.

9 So we're doing this by telephone. Normally,
10 we would do it in court. Let me hear from the
11 government as to why we should proceed by telephone.

12 MR. ESTES: Yes, your Honor. Andrew Estes
13 for the government. The defendant was arrested in
14 Illinois. In light of the ongoing global health crisis
15 and pandemic involving travel to the Eastern District
16 of New York, both for himself, possible family
17 suretors, and counsel would, respectfully, not be in
18 the interests of justice in order to promptly to have
19 him appear.

20 THE COURT: And, defense counsel, what's
21 your position with regard to proceeding by telephone?

22 MR. RADICK: Your Honor, we agree with what
23 Mr. Estes said and also consent to proceeding
24 telephonically for purposes of this arraignment.

25 THE COURT: All right. And have you

1 consulted with your client about it?

2 MR. RADICK: Yes.

3 THE COURT: And is he in agreement?

4 MR. RADICK: Yes.

5 THE DEFENDANT: Yes.

6 MR. RADICK: Yes, we'd prefer to proceed by
7 telephone. I'm sorry, this is Robert Radick. He can
8 confirm for himself if your Honor would like.

9 THE COURT: I'll ask him in a minute.

10 Back to the government and maybe Felix, if
11 you have some information. We're doing this by
12 telephone rather than video conference for what reason?

13 THE CLERK: We're just doing it by telephone
14 because we only do video when they're either at the MDC
15 or in the marshals' holding pens downstairs in the
16 building.

17 THE COURT: Defense counsel, does your
18 client and do you agree that proceeding by telephone as
19 compared to video conference is acceptable?

20 MR. RADICK: Yes, your Honor. Robert
21 Radick. Yes.

22 THE COURT: Just briefly, before we move to
23 the substance of today's proceedings, under the CARES
24 act, which was passed by Congress in March of 2020, the
25 findings of the judicial conference of the United

1 States made the same month, and the administrative
2 orders of Chief Judge Matsumoto, of which there have
3 been 2020-13, 2020-13-1, and the currently effective
4 one is 2020-13-2, all allow the criminal proceedings to
5 move ahead either by video or telephone if video is not
6 available, with the consent of the defendant after
7 consultation with his attorney, in light of, as I
8 already said, the global pandemic, the Covid 19 virus
9 outbreak. In this particular case, given that the
10 defendant and his family and some counsel are out of
11 state and there are travel restrictions in many states
12 between Illinois and New York, this seems to be the
13 safest, most efficient way to proceed, and delaying the
14 arraignment would be -- would harm the interests of
15 justice, so we're going to proceed this way.

16 Moving on to the arraignment on the
17 indictment. So for the defendant, Mr. Naumovski,
18 there's a document in this case called the indictment
19 and what we're doing right now is the arraignment on
20 the indictment. The purpose of the proceeding is to
21 make sure that you understand the crimes with which you
22 are charged in the indictment, to make sure you
23 understand a few of your rights in today's proceeding,
24 and to discuss whether you're going to continue to be
25 released on bond or be held in custody.

1 So with regard to your rights in this
2 proceeding, first, you have the right to remain silent.
3 That means you don't need to say anything. Anything
4 you do say, except to your lawyer, may be used against
5 you. If you need to talk to your lawyer at any point
6 during today's proceeding, you can let me know. If you
7 can hold off on speaking until we've sorted out the
8 mechanics of the telephone system so that your
9 conversation with your attorney is a private
10 conversation. Additionally, you have the right to be
11 represented by an attorney. If you can't afford one,
12 the Court will appoint one to represent you.

13 Counsel, are you retained counsel?

14 MR. RADICK: Yes, your Honor. Robert
15 Radick. Yes.

16 THE COURT: Mr. Radick, have you advised
17 your client of his rights in today's proceeding?

18 MR. RADICK: I have, your Honor.

19 THE COURT: Do you believe he understands
20 those rights?

21 MR. RADICK: I do.

22 THE COURT: Did you review the indictment
23 with your client, Mr. Naumovski?

24 MR. RADICK: Yes, your Honor.

25 THE COURT: Do you believe he understands

1 the indictment?

2 MR. RADICK: Yes, your Honor.

3 THE COURT: Would you like me to read the
4 indictment aloud?

5 MR. RADICK: No, we waive the public reading
6 of the indictment.

7 THE COURT: For Mr. Naumovski, have you read
8 the indictment?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand the charges
11 against you?

12 THE DEFENDANT: Yes.

13 THE COURT: Did you have a sufficient
14 opportunity to consult with your attorneys about the
15 indictment?

16 THE DEFENDANT: Yes.

17 THE COURT: Let me go back to Mr. Radick.
18 Is your client or are you on behalf of your client
19 prepared to enter a plea at this time?

20 MR. RADICK: Yes, your Honor. On behalf of
21 Mr. Naumovski, we enter a not-guilty plea to the charge
22 in the indictment.

23 THE COURT: Okay. Is there any issue of
24 consular notification in this case?

25 MR. ESTES: This is Andrew Estes for the

1 government. I believe that the FBI has notified the
2 appropriate consular authorities for Canada.

3 THE COURT: And for defendant's counsel, is
4 that the country for which -- if he wanted to have
5 consular notification, the notification would be made?

6 MR. RADICK: That's correct. Mr. Naumovski
7 is a Canadian citizen.

8 THE COURT: Felix mentioned earlier that Mr.
9 Naumovski already has been released on a bond in
10 Illinois. So what's the proposal with regard to having
11 a bond here in this Court?

12 MR. RADICK: Your Honor, the proposal for
13 the bond here in this Court, which is the subject of
14 agreement between the defense and the government, is a
15 one-million-dollar bond. It is to be secured by the
16 home in which Mr. Naumovski and his wife reside, which
17 is at 7082 State Road 152 in Du Quoin, Illinois. The
18 value of that home, as we've explained to the
19 government, is between \$400,000 and \$450,000. And when
20 you subtract out the debt, there is equity roughly in
21 the \$275,000 to \$300,000 range.

22 The co-signer on the bond would be Mr.
23 Naumovski's wife, Roseann Naumovski, who is present for
24 purposes of this telephonic court appearance. The
25 government has also indicated it would like there to be

1 a second co-signer. We do not yet have a second co-
2 signer identified but we propose to pursue that and
3 identify the second co-signer within a week and to
4 return to the Court if there are any questions or
5 concerns about our ability to identify a second co-
6 signer.

7 Travel restrictions are proposed to include
8 New York City, travel permitted to New York City,
9 Illinois, and the Eastern District of Missouri. I
10 believe that sets forth the primary conditions of the
11 bond.

12 THE COURT: And why Missouri?

13 MR. RADICK: Because that's actually the
14 closest major city. For example, Mr. Naumovski is in
15 Missouri at the moment for purposes of being with his
16 legal counsel there, and St. Louis is very close to the
17 Southern District of Illinois. It just is a location
18 where he has legal advisors, business interests. And
19 as well, your Honor, if he were to fly to New York to
20 come to court, that would inevitably involve flying out
21 of St. Louis.

22 THE COURT: Okay.

23 Did somebody just join the call? Do we
24 still have defense counsel, the government, and Mr.
25 Naumovski on the line?

1 MR. RADICK: Yes, ma'am.

2 MR. ESTES: The government is here.

3 THE COURT: And the defendant is here on the
4 line?

5 MR. RADICK: Yes, ma'am.

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. I'm not sure what that
8 was.

9 What's the government's position with regard
10 to the bond?

11 MR. ESTES: Your Honor, the bond terms
12 outlined by defense counsel are agreeable to the
13 government. A couple of points I guess to just add to
14 it since receiving Pretrial's recommendations after
15 discussions. In addition to reporting to Pretrial
16 Services as directed, there were recommendations that
17 the government agrees with of being subject to random
18 home and employment visits by Pretrial Services,
19 subject to random drug testing evaluation and treatment
20 as directed by Pretrial Services, surrendering the
21 Illinois State firearm owner's identification card and
22 concealed carry license to Pretrial Services, refrain
23 from possessing a firearm, ammunition, destructive
24 device, or other dangerous weapons.

25 THE COURT: All right, what's the

1 defendant's position with regard to those items?

2 MR. RADICK: Your Honor, those are all
3 acceptable to the defense. In fact, I believe that the
4 firearms license and the firearms have already been
5 surrendered but if not, they will be. His passport was
6 surrendered. I don't know if that was specifically
7 mentioned, but those conditions are acceptable.

8 THE COURT: Okay, all right. Hold on a
9 minute here. I'm just going talk to Felix, our
10 administrator here.

11 Can you update this, Felix, to add --

12 THE CLERK: Yes.

13 THE COURT: Sorry, which district of
14 Missouri is it?

15 MR. RADICK: Eastern District of Missouri.

16 THE COURT: All right, to add the Eastern
17 District of Missouri, to add --

18 THE CLERK: Yes, I will, Judge.

19 THE COURT: In addition to the witnesses,
20 add victims or coconspirators to number 2 on the bond,
21 and then also after number 6, an additional financially
22 responsible surety to sign.

23 We're saying a week, is that right?

24 MR. ESTES: Yes, your Honor, a week.

25 THE COURT: Does that take into account that

1 Monday is a holiday?

2 MR. RADICK: If we could extend it to -- I
3 think, your Honor, if we go to the Wednesday. Today is
4 the 6th so if we go to the 14th, that would be helpful.

5 THE COURT: Okay.

6 MR. RADICK: As long as there's no objection
7 from the government.

8 MR. ESTES: No objection.

9 THE COURT: Okay. All right, I think that
10 we've covered everything on here.

11 Felix, if you don't mind, if you could swear
12 in Ms. Naumovski.

13 (Suretor is sworn.)

14 THE COURT: Ms. Naumovksi, what I'm going to
15 do is go over the bond and explain how it works to Mr.
16 Naumovski. And if you could listen and then I'll come
17 back and ask you a few questions and see if you'd like
18 to be a surety on the bond, okay?

19 MS. NAUMOVSKI: Okay.

20 THE COURT: The way this bond works is, it's
21 a million-dollar bond. Nobody is paying a million
22 dollars right now. There will be security posted with
23 the home at State Route 152 but the rest of the money,
24 the difference between the equity in the house and the
25 million dollars isn't being paid right now. But if the

1 defendant -- if you fail to adhere to the conditions of
2 the bond, then the United States government is entitled
3 to collect the million dollars. Their first effort is
4 likely to be to take the house but they can proceed
5 beyond that to get the million dollars, and they could
6 take it from you, from your wife, or when the third
7 financially -- sorry, second financially responsible
8 surety signs, from that person, or some combination of
9 one of you, of two of you, of three of you.

10 Do you understand how the million dollars
11 works with regard to the bond?

12 THE DEFENDANT: Yes.

13 THE COURT: The conditions of the bond
14 include the following: You have to remain in and you
15 can't leave the following areas without the Court's
16 permission, so New York City. That's the five boroughs
17 of New York City. If you're coming to New York via New
18 Jersey, you need to check with your attorney and the
19 Court about doing that because this is very limited to
20 the five boroughs of the City of New York, Illinois,
21 and the Eastern District of Missouri, and you can
22 travel to and from the Court here and permitted areas.

23 You have to avoid all contact with
24 witnesses, coconspirators, and victims. You have to
25 surrender any passport to Pretrial Services. I

1 understand that's already been done, and you're not to
2 obtain any other passport or international travel
3 document. You're going to be supervised by the
4 Pretrial Services Agency. That will include being
5 subject to random visits by a Pretrial Services officer
6 at your home or place of work. You have to report as
7 directed by Pretrial Services to Pretrial. You have to
8 -- hold on one second. I need to switch between
9 documents here.

10 You have to submit to random drug testing,
11 evaluation, and treatment as directed Pretrial
12 Services. You have to surrender your Illinois firearm
13 owner's identification card and concealed carry license
14 to Pretrial Services. I understand that seems to have
15 already been done. If it hasn't, you need to do it,
16 let's say by tomorrow, and you need to refrain from
17 possessing a firearm, ammunition, destructive device,
18 or any other dangerous weapon.

19 Additionally, you're not to submit claims,
20 directly or indirectly, to Medicaid or Medicare. And
21 then as I mentioned earlier, there will be some
22 security posted. So the premises at 782 State Route
23 152 in Du Quoin, Illinois, which I understand you and
24 your wife own, needs to be posted as security. And in
25 connection with that, you're going to execute a

1 confession of judgment or whatever the paperwork is
2 with regard to the property in Illinois. That needs to
3 be coordinated with the U.S. Attorney's office.

4 Do you understand all of those conditions?

5 THE DEFENDANT: Yes, I so.

6 THE COURT: I'm going to give you some
7 additional warnings.

8 Felix, if you don't mind, if you could send
9 me an updated bond and I'll go over the signature.

10 THE CLERK: Sure.

11 THE COURT: Do you need a page with regard
12 to the posting of the property?

13 THE CLERK: I do not.

14 THE COURT: Okay. Some additional warnings
15 for the defendant include, if you don't come to court
16 as directed or you violate the conditions of release, a
17 warrant will issue for your arrest, and you may then be
18 held without bond until your trial. Your failure to
19 appear in court, and that includes telephone and video
20 conferences, may result in a charge of bail jumping.

21 It's a separate felony offense. It carries its own
22 term of imprisonment. You could be acquitted or
23 cleared of the underlying charges and yet have to go to
24 jail because you didn't come to court or participate in
25 court as directed. If you are convicted of the

1 underlying charges, the sentence for bail jumping could
2 be consecutive to the sentence for the underlying
3 crime.

4 As part of the conditions of this bond,
5 you're not to commit any crime while on bond. If you
6 do that, you could face additional charges for the
7 separate crimes you're alleged to have committed and
8 you could face increased punishment as a result of a
9 crime committed while on bail. You're not to threaten
10 or attempt to influence the testimony of anyone who you
11 think might be a witness against you in this case. If
12 you do that, this bond will be revoked and you could
13 face additional charges for witness tampering or
14 obstruction of justice.

15 Do you understand those warnings?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Let me go to Ms. Naumovski.

18 Do you understand how the bond works?

19 MS. NAUMOVSKI: Yes, I do.

20 THE COURT: Can you confirm on the record --
21 you're Mr. Naumovski's wife, is that right?

22 MS. NAUMOVSKI: Yes, I am.

23 THE COURT: Are you employed?

24 MS. NAUMOVSKI: Yes, I am.

25 THE COURT: What's your annual salary?

1 MS. NAUMOVSKI: My annual salary is \$120,000
2 annual.

3 THE COURT: Would you like to be a surety on
4 this bond?

5 MS. NAUMOVSKI: Yes.

6 THE COURT: Since we logistically can't --
7 it's hard to have you sign it, do you authorize me to
8 put your name and my initials next to it that I've
9 signed for you on this bond?

10 MS. NAUMOVSKI: Yes, Judge.

11 THE COURT: For Mr. Naumovski, do you
12 understand the whole bond and the warnings I gave you?

13 THE DEFENDANT: Yes, Judge.

14 THE COURT: Do you need an opportunity to
15 speak with your attorney before proceeding with the
16 bond?

17 THE DEFENDANT: No.

18 THE COURT: Would you like to be released or
19 continue your release on this bond?

20 THE DEFENDANT: Yes, Judge.

21 THE COURT: Similarly, do you authorize me
22 to sign your name on this bond since logistically,
23 you're out of state and we're here in the Eastern
24 District of New York?

25 THE DEFENDANT: Yes, Judge.

1 THE COURT: I'm going to sign this document.
2 You'll get a copy of it. You should read it carefully
3 with your attorney. If there's anything you don't
4 understand or, for counsel, if it needs clarification,
5 you should return to the Court and make sure it's
6 clear. We try when we're doing it at a distance but
7 it's a little bit difficult. Sorry, I'm going to ask
8 Felix one more thing.

9 Can you add victims to number 2?

10 THE CLERK: I will, Judge.

11 THE COURT: And then just shoot it over to
12 me via email. Thanks.

13 While we're covering that, I asked at the
14 beginning if there was an application for an order of
15 excludable delay. I understand you're going to check
16 with the district judge when the conference is going to
17 be first before proceeding with any application. Is
18 that right?

19 MR. ESTES: Yes, your Honor.

20 THE COURT: Okay, so I'm just going to flag
21 the issue of the Speedy Trial Act for everyone,
22 particularly the government, and remind you that you
23 need to keep track of those dates. If you are working
24 out your schedule with the district judge, you need to
25 keep abreast of that.

1 Felix, if you could note on the docket that
2 time is not excluded so everyone is aware.

3 MR. ESTES: Yes, your Honor.

4 THE CLERK: Okay.

5 THE COURT: Is there anything else we should
6 cover here today?

7 MR. RADICK: Judge, I have a question on
8 reporting to Pretrial. Where does the Court envision
9 him reporting when he's not in New York?

10 THE COURT: I think we have a Pretrial
11 Services officer on the line. Do we?

12 MS. LEE: Yes, this is Anna Lee (ph) from
13 Pretrial in the Eastern District of New York. He is to
14 continue reporting to his officer over in Illinois. We
15 will reach out to him and his officer about today's
16 hearing.

17 MR. RADICK: Okay, thank you.

18 THE COURT: Anything else?

19 MR. ESTES: Not from the government, your
20 Honor, thank you.

21 MR. RADICK: Not on behalf of Mr. Naumovski
22 from Mr. Radick. Thank you, your Honor.

23 THE COURT: Okay, thanks everyone. Take
24 care.

25 THE CLERK: Thank you, everyone. Bye.

1 MR. RADICK: Thank you, Judge.

2 THE COURT: Bye.

3 MR. ESTES: Bye, your Honor.

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18 I certify that the foregoing is a correct
19 transcript from the electronic sound recording of the
20 proceedings in the above-entitled matter.
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25 ELIZABETH BARRON

December 17, 2020